

**POKAGON BAND OF POTAWATOMI INDIANS
TRIBAL COURT**

CASE NO. 21-170-ELE

In re: The Election held on July 10, 2021

Hon. Michael Petoskey

Roger Rader,
Challenger

v.

Pokagon Band of Potawatomi Indians Election Board,
Respondent.

CASE NO. 21-171-ELE

In re: The Election held on July 10, 2021

Matthew Wesaw,
Challenger

v.

Pokagon Band of Potawatomi Indians Election Board,
Respondent.

Roger Rader
Pro Se

Pokagon Band of Potawatomi Election Board
Respondent

Matthew Wesaw
Pro Se

Pokagon Band of Potawatomi Indians
Office of General Counsel
J. Edward Williams (P61685)
Paul W. Shagen (P57389)
Attorney for Respondent, Pokagon Band of
Potawatomi Indians Election Board
58620 Sink Road
Dowagiac, MI 49047
(269) 783-0970

Rebecca Drake Richards
Respondent

Shanon A. Buari (33757-64)
Anderson, Agostino & Keller, P.C
Attorney for Respondent, Rebecca Drake
Richards
131 S. Taylor Street
South Bend, IN 46601
(574)288-1510

OPINION REGARDING ELECTION CHALLENGES

This *Opinion* is issued regarding an election challenge filed by Roger Rader and an election challenge filed by Matthew Wesaw, Tribal Chairman, in his individual capacity.

Both election challenges were presented at a consolidated hearing because the challenges were essentially the same. Each of the parties consented to the Court's request to consolidate the hearing. In addition, the parties had no objection to the Court granting a motion filed by Ms. Rebecca Richards, Tribal Chairman-Elect, to join the Election Board as a Respondent to defend against the challenges. Thus, that motion was granted. Also, the Election Board filed a motion to strike a "Challenge Statement" submitted by Challenger Rader after the statutory deadline for filing challenges. That motion was granted by the Court.

The *Election Code* requires this Court to make written *Findings of Fact* and *Conclusions of Law*. Accordingly, each is presented as follows.

FINDINGS OF FACT:

A. REGARDING THE FILING OF ELECTION CHALLENGES:

1. It was a photograph of "what appeared to be roughly over 100 returned election packets sitting in the election office" that prompted the concern of each of the two Challengers in this matter.
2. Challenger Rader's supervisor sent him a text and the photograph on Tuesday, July 13th, which was three days after the Saturday, July 10th Election.
3. The photograph and text caused concerns for Challenger Rader and raised a lot of questions.
4. His primary concern was whether the Election Board had properly followed up on that stack of returned mail.
5. After an initial consultation with others, it was determined that "we had to let the Election Board properly follow up on the returned mail".
6. Thereafter, Challenger Rader reached out to an Election Board Member to offer his IT services, as an IT specialist, because he thought that there might be a problem with the list that the Election Board used due the volume of returned mail.
7. In email exchanges between that certain Election Board Member and Challenger Rader, concerns and questions mounted for him after an unintended incorrect response was given to one of his inquiries.
8. As his concerns heightened, he grew frustrated that his offers to assist with his IT services went unanswered because he believed that there was a problem with the mailing list used by the Election Board.
9. He began to wonder whether fellow citizens were denied the right to vote.

10. He couldn't obtain "a reasonable answer" to what that stack of returned mail might be.
11. Thereupon, he decided that he must file a challenge because he could not in good conscience allow the Election to be certified by the Election Board with such questions lingering without answers been provided. His Challenge primarily seeks answers.
12. At some point, he shared his concerns with Tribal Chairman, Matthew Wesaw, who provided a written statement which was included as part of his challenge.
13. Challenger Rader formally filed his Election Challenge on July 14th which was the final day that he could take such action.
14. Later that same day, Tribal Chairman, Matthew Wesaw, in his individual capacity, filed a separate Election Challenge basically raising the same questions that Challenger Rader presented in his filing.
15. Tribal Chairman Wesaw characterized his concerns as that of "disenfranchisement of roughly 100 Pokagon Citizens who are currently registered voters who did not get absentee ballots and an opportunity to vote".
16. In addition, Tribal Chairman Wesaw's Challenge asks this Court "to determine if this issue invalidates the election..."

B. REGARDING THE ELECTION BOARD RESPONSE:

1. After the election challenges were filed, the envelopes in the stack of returned mail, that prompted these two present Challenges, were each opened.
2. None of the envelopes contained absentee ballots.
3. **This should be such a relief to each of the two Challengers, as this was the primary concern for each of them.**
4. The envelopes in the photographed stack are the larger of the two sizes of envelopes used by the Election Board for its three separate mailings. There is a significant difference in the size of the two envelopes used by the Board.
5. Absentee ballots are mailed in the smaller envelopes.
6. All other election materials are mailed in the larger envelopes.
7. **No one was denied the right to vote.**
8. In terms of returned mail, each Tribal Citizen has an individual responsibility to keep his/her address of record up to date.

CONCLUSIONS OF LAW:

1. Neither Challenger has met the burden of proof established in Tribal law for election disputes.
2. Neither Challenger is entitled to any remedy provided by law.
3. Challenger Rader has been provided the answers he sought about the contents of the stack of returned mail, which list the Election Board used for its mailings, and by whom the list was drawn.
4. Both Challenger Rader and Challenger Wesaw have been provided the answer that each sought about whether the right of each Citizen to vote had been abridged.

WHEREFORE, FOR ALL OF THE FOREGOING,

The request of both Respondents that each of the two Challenges be dismissed is **GRANTED**.

07/22/21

Date



Michael Petoskey, Chief Judge